



Information Technology

RLB

AMENDMENT OF CONTRACT 004559

AMENDMENT 05

AMENDMENT DATE: April 20, 2018

This AMENDMENT OF CONTRACT (hereafter this "Amendment") is made and entered into by and between the Contractor named and identified below, (hereafter "Contractor") and the COUNTY OF OAKLAND (hereafter "County") whose address is 2100 Pontiac Lake Rd, Waterford, MI 48328.

CONTRACTOR	ADDRESS
Inmate Calling Solutions LLC	2200 Danbury Street
Vendor Number: 19667	San Antonio, TX 78217

The County and Contractor agree and acknowledge that the purpose of this Amendment is to modify as provided herein and otherwise continue the present contractual relationship between the Parties as described in their current contract with the same contract number as above.

In consideration of the extension of the mutual promises, representations, assurances, agreements, and provisions in the Contract and this Amendment, the adequacy of which is hereby acknowledged by the Parties, the County and Contractor hereby agrees to amend the current Contract as follows:

- 1.0 The County and Contractor agree that any and all defined words or phrases in the current Contract between the parties will apply equally to and throughout the amendment.
- 2.0 The Parties agree that any and all other terms and conditions set forth in the current Contract between the Parties shall remain in full force and effect and shall not be modified, excepted, diminished, or otherwise changed or altered by this Amendment except as otherwise expressly provided for in this Amendment.
- 3.0 Description of Change:

Section 10.24.1 shall be amended to add the following language: "County consents to the use of Keefe Commissary Network, LLC, d/b/a/ Access Corrections, a Keefe Group



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Company, located at 10880 Lin Page Place, St. Louis, Missouri 63132 (the "Payments Subcontractor"), as the subcontractor of Contractor for providing the payment processing services described further in the Scope of Services to this Amendment #05.

The attached and incorporated Scope of Contractor's Payment Processing Services is added to the services Contractor will provide County under the Contract.

Contractor shall be responsible for the cost of an Interface to the County's Jail Management System (IMACS) needed to implement the payment processing services described in the attached and incorporated Scope of Services to this Amendment. Upon execution of this Amendment, Contractor, through its Payments Subcontractor, identified above, shall provide County payment of \$12,825, which County shall immediately remit to Intellitech Corporation in Poland Ohio, to begin work on the Interface with County IMACS. Upon acceptance by County that the Interface is functioning properly and able to process the data it needs to provide the payment processing services described in the Scope of Services, Contractor, through its Payments Subcontractor, identified above, shall remit to County a final payment of \$12,825. County shall immediately provide payment to Intellitech Corporation the final payment of \$12,825 for the Interface.

For and in consideration of the mutual assurances, promises, acknowledgments, warrants, representations, and agreements set forth in the Contract and this Amendment, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the undersigned hereby execute this Amendment on behalf of the County, and Contractor and by doing so legally obligate and bind the County and Contractor to the terms and conditions of the Contract and this Amendment.

THE CONTRACTOR:

SIGN / DATE:

Brendan Philbin
Brendan Philbin (May 11, 2018)

May 11, 2018

Inmate Calling Solutions LLC

THE COUNTY OF OAKLAND:

SIGN / DATE:

Scott N. Guzy
Scott N. Guzy (May 11, 2018)

Pamela L. Weipert, CPA CIA, Compliance Officer
or

Scott N. Guzy, CPPO, MBA, Purchasing Administrator

aec

SCOPE OF SERVICES FOR AMENDMENT #05 TO CONTRACT 004559

1. **Services.** Contractor will provide payment processing services for payments made through kiosks, walk-in retailers, online websites and/or mobile sites, call centers or applications operated by Contractor or such other methods ("**Transactions**") for crediting account balances held by County on behalf of the recipients of funds (the "**Services**"). A further description of the features of the payment processing services to be provided by Contractor is provided in the attached and incorporated "Access Corrections ®Secure Deposits \$" document. Contractor provides the Services through Payments Subcontractor in its capacity as a licensed money services business. Contractor represents and warrants to County that Payments Subcontractor is duly licensed to provide the Services and will do so in compliance with applicable laws and regulations.
2. **Authorization.** By executing this Amendment, County authorizes Contractor to act on its behalf to submit Transactions initiated by individuals through the Services to the credit card networks or otherwise for authorization, processing and settlement to County for the benefit of designated recipients.
3. **Responsibilities of Contractor.**
 - a. Contractor will receive payments from the public, directed to recipients by way of the Services.
 - b. Contractor will transfer payment files to County on a daily basis. Contractor will deliver payments to County by the second business day following (but not including) the day of the transaction by means of an electronic funds transfer ("EFT") to County's designated bank account; provided, however, Contractor, in its sole discretion, reserves the right to delay its acceptance of any transaction that Contractor determines to be suspicious and warrants further investigation. County acknowledges and agrees that Contractor may terminate/cancel any proposed transaction should Contractor determine the transaction is being made for an improper or illegal purpose.
 - c. Contractor will provide County with daily payment information by way of the Contractor interface with the County's Jail Management System (IMACS) and through the Contractor provided web management tool that will indicate deposit transactions.
 - d. Contractor shall provide County's vendor, Intellitech Corporation, with the program coding and technical assistance necessary to enable IMACS to receive financial transaction data and to send back financial transaction data as well as communicate Inmate identifying information necessary to associate payments made from the public with individual Inmates.

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- e. Contractor will be responsible for responding to and resolving inquiries and complaints from senders of funds arising out of Contractor's failure to timely transmit any payment to County.
- f. Contractor will provide sufficient promotional material to be posted by County.
- g. Contractor, upon receipt of written notice from County, shall place limitations on transactions. The limitations will be implemented by Contractor as soon as is reasonably practicable.

4. Responsibilities of County.

- a. County will provide Contractor with the required bank account information for transmission of an EFT. County agrees to notify Contractor, in writing, giving fourteen (14) days' notice, of any changes to the bank account information.
- b. County will, upon receipt of written documentation of overpayment, promptly, but in no event more than ten (10) business days, refund any overpayment made by Contractor, for any reason. This is to include, but not be limited to, duplicate payments, payments refunded to customers by Contractor and any incorrect payments. At Contractor's sole option and in lieu of the foregoing, Contractor may offset any such overpayments from future payment amounts transmitted by Contractor to County and notify County of any such offset.
- c. Upon implementation of the Services, County agrees that other than cash received at their location, it will not accept payments designated for recipient accounts.
- d. County will promptly report receipt of each payment to the designated account or recipient in accordance with the County's policy.
- e. County agrees that it shall, remain responsible for any claims arising out of its performance of this Amendment as provided by law. This is not intended to increase or decrease County's liability or immunity from tort claims nor does it give Contractor a right of indemnification from claims arising out of this Amendment.
- f. Contractor will provide all labor necessary for and will guarantee the workmanship of the installation of a lobby kiosk including, but not limited to, material handling within the facility and all costs associated with the networking, internet connectivity and electrical enhancements required to install a kiosk at the County's location.

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- g. County agrees that Contractor may determine, in its sole discretion, to suspend, terminate or place restrictions on one or more individual's ability to use the Services.
- 5. **Rates.** The Services shall be provided at no cost to County. Contractor shall charge persons initiating a Transaction a service fee in accordance with its rate schedule which the County acknowledges may be amended by Contractor from time to time and only upon approval of County.
- 6. **Exclusivity.** Contractor has the exclusive right to provide the Services for the County and the exclusive right to collect and receive money handling fees associated with the Services, which fees will belong to Contractor.
- 7. **Termination.** This Amendment may be immediately terminated by either Party, in its sole discretion, in the event Party has not cured a breach of this Amendment within thirty (30) days of written notice of such purported breach from the non-terminating Party. Termination of this Amendment does not affect either Party's rights or obligations as to any transaction submitted for processing prior to termination.
- 8. **Refunds/Chargebacks.**
 - a. The Parties acknowledge that once Contractor accepts a transaction submitted to the applicable payment network or otherwise for processing, Contractor cannot cancel or change the transaction. Except to the extent required by applicable law, payments processed by Contractor are non-refundable to the individual by Contractor. Individuals may have additional refund or chargeback rights under their cardholder agreement with the card issuer or applicable law.
 - b. In the case of chargebacks or returned funds, Contractor will be responsible for pursuing the chargeback through the card association's dispute resolution processes, if appropriate in Contractor's sole discretion. Upon written request from Contractor, County agrees to provide requested information needed to pursue the chargeback if it has possession of the requested information.
 - c. If an individual requests a refund, Contractor will not be responsible for making those funds available if they have been already settled to a designated account by Contractor or are beyond Contractor's control.
 - d. If County and sender of funds issue inconsistent instructions or requests to Contractor, County's instructions will control.
- 9. **Limitation of Liability; No Other Warranty.** OTHER THAN CONTRACTOR'S OBLIGATION FOR ANY FUNDS RECEIVED FROM INDIVIDUALS, AND IN THE CASE OF CONTRACTOR'S GROSS NEGLIGENCE, IN NO EVENT SHALL CONTRACTOR'S AGGREGATE LIABILITY IN TOTAL FOR ALL



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CLAIMS ARISING FROM OR RELATING TO THIS AMENDMENT EXCEED THE AMOUNT OF SERVICE FEES PAID TO CONTRACTOR FOR THE TRANSACTIONS RELATING TO THE CLAIM. THE FOREGOING LIMITATION APPLIES REGARDLESS OF THE NATURE OF THE CLAIM OR THE FORM OF THE ACTION EMPLOYED, WHETHER IN CONTRACT, WARRANTY, TORT OR OTHERWISE. IN NO EVENT WILL CONTRACTOR BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST INCOME OR LOST REVENUE WHETHER BASED IN CONTRACT, TORT, OR ANY OTHER THEORY. THE SERVICES ARE PROVIDED "AS IS." EXCEPT AS EXPRESSLY STATED IN THIS AMENDMENT, NEITHER PARTY MAKES, AND EACH PARTY EXPRESSLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, OR IMPLIED WARRANTIES ARISING FROM THE COURSE OF DEALING OR COURSE OF PERFORMANCE.